



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 3, 1996

Ms. Y. Qiyamah Taylor
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR96-2294

Dear Ms. Taylor:

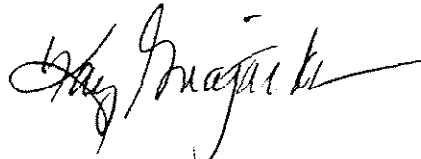
You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 102601.

The City of Houston (the "city") received a request for a tape recording of two particular 911 calls. You assert that the requested tape is excepted from required public disclosure based on Government Code section 552.108. Section 552.108 of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution. Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). The tape appears to relate to the city police department's investigation of a crime. Accordingly, we conclude that the city may withhold the requested tape from the requestor based on section 552.108.

You inform us that on September 4, 1996, the city received a request for other information from the same requestor. You say the city informed the requestor that, "except for the public release portion of the requested report which will be released to him by HPD Media Relations, the requested documents are excepted from public disclosure" under section 552.108 of the Government Code. However, because this office has not ruled on the public disclosure of the information, the city is without authority to withhold that information from the requestor. Moreover, because the city did not timely seek a determination from this office as to the applicability of section 552.108 to the requested information, the city has waived the protection of section 552.108 for that information. *See* Gov't Code §§ 552.301, .302.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo", with a long horizontal flourish extending to the right.

Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 102601

Enclosure: Submitted tape

cc: Mr. Olen Scott Hancock
2401 West Sam Houston Parkway North, #1411
Houston, Texas 77043
(w/o enclosure)